

REMARKS

By this amendment, Applicants have amended claims 1, 7, 16, and 21. As a result, claims 1-23 remain pending in this application. These amendments are being made to facilitate early allowance of the presently claimed subject matter. Applicants do not acquiesce in the correctness of the objections and rejections and reserve the right to pursue the full scope of the subject matter of the original claims, or claims that are potentially broader in scope, in the current and/or a related patent application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, the Office rejects claim 1-23 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement.

In particular, the Office alleges that the “specification does not mention that resources can be ‘unallocated to any process’”. Office Action, p. 2, paragraph 2. In response, Applicants note that such a feature is clearly described in the specification. For example, the specification describes determining a set of available resources, which includes allocating resources to processes, and waiting for resources to become available. Specification, paragraph 0030. Logically, it follows that a resource becomes available when it is not allocated to any process. Further, the specification also states that “[a]fter all required resources have been allocated to one or more processes, one or more additional resources may remain available. Instead of allowing these resources to remain unused, additional resources can be allocated to one or more of the processes.” Specification, paragraph 0034. These portions of the specification, *inter alia*, provide clear support for the claim limitation that each available resource is unallocated to any process.

Additionally, the Office alleges that the “specification does not mention ‘anticipated difference in at least one execution metric for the process’”. Office Action, p. 2, paragraph 2. By this response, Applicants have amended the claims to state the equivalent “anticipated difference in at least one measurement with respect to the execution of the process” to facilitate early allowance of the presently claimed subject matter. Applicants note that the specification discusses several examples of such measurements with respect to the execution of a process in conjunction with anticipated benefit. For example, paragraph 0035 discusses execution time; paragraph 0036 discusses a relative (e.g., percentage) performance increase/decrease; and paragraph 0037 discusses an anticipated time savings. Each of these examples comprises an illustrative measurement of the anticipated benefit with respect to the execution of the process. To this extent, each provides an example of a “measurement with respect to the execution of the process” as would be readily recognized by one skilled in the art.

In light of the above, Applicants respectfully request withdrawal of the rejections of claims 1-23 as allegedly failing to comply with the written description requirement.

Further, the Office rejects claim 7-23 under 35 U.S.C. § 112, first paragraph, as allegedly failing to particularly point out and distinctly claim the subject matter of the invention. In particular, the Office alleges that the phrase “the learned benefit knowledge including a benefit to at least one execution metric from at least one previous allocation of resources for each process” is unclear. Office Action, pp. 2-3, paragraph 4. By this response, Applicants have amended claims 7, 16, and 21 to change the phrasing in order to facilitate early allowance of the presently claimed subject matter. As a result, Applicants respectfully request withdrawal of the rejections of claims 7-23 as allegedly failing to distinctly claim the subject matter of the invention.

Further, the Office rejects claims 1-6 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,473,773 (Aman) in view of U.S. Patent No. 6,665,716 (Hirata) further in view of U.S. Patent Publication No. 2003/0135580 (Camble). In order to maintain a proper rejection under 35 U.S.C. § 103(a), the Office must show that the proposed combination of references teaches or suggests each feature of the claimed invention. Applicants respectfully submit that the Office fails to present such a showing.

For example, with respect to claim 1, Applicants respectfully submit that the Office fails, *inter alia*, to show that the proposed combination of Aman in view of Hirata further in view of Camble teaches or suggests determining a set of available resources as in claim 1. In support of the rejection, the Office cites Aman, col. 3, lines 1-17; and col. 4, lines 14-20 as allegedly disclosing this feature. However, these portions of Aman describe resource reallocation from a donor performance goal class to a receiver performance goal class. To this extent, in Aman, the resources are not unallocated, and therefore available, resources, but are allocated and subsequently reallocated to another performance goal class. As described in the specification, allocation system allocates resources to a process, which are available (i.e., not allocated to another process). See, e.g., specification, paragraphs 0030, 0034. As a result, Applicants submit that Aman fails to teach or suggest determining a set of available resources as in claim 1. However, should the Office maintain the rejection, Applicants respectfully request that the Office clarify its interpretation of the “determining a set of available resources” claim feature and how the cited portions of Aman allegedly teach or suggest this feature.

With further respect to claim 1, Applicants respectfully submit that the Office fails to show that the proposed combination of Aman in view of Hirata further in view of Camble teaches or suggests determining an anticipated benefit for the set of available resources for each

process in a set of lagging processes, the anticipated benefit for each process including an anticipated difference in at least one measurement with respect to the execution of the process should the set of available resources be allocated as additional resources for the process as in claim 1. Initially, Applicants note that the Office recognizes that Aman does not include any teaching or suggestion for determining a set of lagging processes. See, e.g., Final Office Action, p. 4. Further, as discussed above, Aman does not include any teaching or suggestion for determining a set of available resources. For these reasons, Aman does not teach or suggest the claimed feature.

Additionally, Applicants submit that the Office fails to show that Aman teaches or suggests determining an anticipated benefit... for each process... as in claim 1. In contrast, the portions of Aman cited by the Office in support of the rejection discuss determining a net value relative to changes for both a receiver and donor. Aman, col. 3, lines 45-48. The receiver and donor are classes of work units. Aman, col. 3, lines 30-31, 44-45, Abstract. In contrast, claim 1 determines an anticipated benefit for a set of available resources for each process in the set of lagging processes. To this extent, while Aman teaches determining benefits of allocating resources to classes of work units, Applicants claim determining an anticipated benefit for allocating resources to individual processes in claim 1. As a result, Applicants submit that Aman teaches away from Applicants' invention of claim 1.

Further, Applicants note that the lagging processes of claim 1 are "running behind a target schedule". It is impossible for any class in Aman to be running behind a target schedule since classes in Aman are not running. In contrast, a class in Aman defines a group of work units of a particular type. Aman, Abstract; col. 2, lines 53-67. In response to Applicants' previous arguments, the Office states that "[i]ndividual work units are assigned to a class

(Column 2, lines 55-56), and units of work are, in turn, application programs that do useful work (Column 2, lines 29-30). Since application programs are inherently to be run on computers (i.e. that's why they need resources to be donated to), they are running.” Office Action, paragraph 27, p. 13. However, Applicants note that the Office’s statement supports Applicants’ contention that the class is not executing, rather as stated by the Office, application programs are executing. The Office apparently confuses the “class” of Aman with “work units”, which can be members of the class, but are distinct from the class.

Applicants submit that the proposed combination of Aman with Hirata and Camble fails to address the deficiencies of Aman discussed above. In light of the above, Applicants respectfully request withdrawal of the rejections of claim 1 and claims 2-6, which depend therefrom, as allegedly being unpatentable over Aman in view of Hirata further in view of Camble.

Further, the Office rejects claims 7-10, 13-19, and 21-23 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Aman in view of U.S. Patent No. 6,076,174 (Freund) further in view of Camble. Applicants respectfully submit that the Office fails to present a sufficient showing to maintain the rejection.

For example, with respect to claim 7, Applicants respectfully submit that the Office fails, *inter alia*, to show that the proposed combination of Aman in view of Freund further in view of Camble teaches or suggests determining a set of available resources and/or determining an anticipated benefit for the set of available resources for each process based on learned benefit knowledge, each process executing on a computer system, the anticipated benefit for each process including an anticipated difference in at least one measurement with respect to the execution of the process should the set of available resources be allocated as additional resources

for the process as in claim 7. Applicants note that the Office relies on the same portions of Aman that were cited in rejecting similar features of claim 1. To this extent, Applicants incorporate the arguments presented above with respect to claim 1.

Further, Applicants respectfully submit that the Office fails to show that the proposed combination of Aman in view of Freund further in view of Camble teaches or suggests allocating at least some of the set of available resources to a process based on the anticipated benefits as in claim 7. Initially, Applicants note that as discussed above, Aman teaches adjusting system control data elements for classes of work units, not an individual process as in claim 7. Further, Applicants note that Aman does not include any column 25, lines 34-39, which continues to be cited by the Office in support of the rejection.

Applicants submit that the proposed combination of Aman with Freund and Camble fails to address the deficiencies of Aman discussed above. For example, Freund discusses performance information for a computer in a network, which is distinct from the processes of claim 7. Further, Camble discusses disabling/redefining storage capacity for users according to their corresponding storage capacity rights, which also is distinct from the processes of claim 7. In light of the above, Applicants respectfully request withdrawal of the rejections of claim 7 and claims 8-10 and 13-15, which depend therefrom, as allegedly being unpatentable over Aman in view of Freund further in view of Camble.

Additionally, Applicants note that claims 16 and 21 include features similar to those discussed above with respect to claim 7. To this extent, Applicants herein incorporate the arguments presented above with respect to claim 7 for claims 16 and 21. As a result, Applicants also respectfully request withdrawal of the rejections of claim 16 and claims 17-19, which

depend therefrom, and claim 21 and claims 22-23, which depend therefrom, as allegedly being unpatentable over Aman in view of Freund further in view of Camble.

Further, the Office rejects claims 11-12 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Aman in view of Freund further in view of Hirata and further in view of Camble. Applicants incorporate the arguments presented above with respect to claim 7, from which these claims depend, and respectfully request withdrawal of the rejection of claims 11-12 as allegedly being unpatentable over Aman in view of Freund further in view of Hirata and further in view of Camble for those reasons.

Further, the Office rejects claim 20 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Aman in view of Freund further in view of U.S. Patent No. 5,996,013 (Delp) and further in view of Camble. Applicants incorporate the arguments presented above with respect to claim 16, from which claim 20 depends, and respectfully request withdrawal of the rejection of claim 20 as allegedly being unpatentable over Aman in view of Freund further in view of Delp and further in view of Camble for those reasons.

Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary and/or in

a related patent application, either of which may seek to obtain protection for claims of a potentially broader scope.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

/John LaBatt/

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